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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,262	02/14/2000	Linda McMeekin	JBP-480	6305

7590 08/28/2002

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EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/503,262

Applicant(s)

MCMEEKIN ET AL.

Examiner

David J. Walczak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The claims are replete with features which have not been shown in the drawings, i.e, the various shapes defined in claim 8, the inner substrate and an inner substrate positioned between two outer sheets and folded on itself (claims 11-14), the three-dimensional body defining an inner substrate (claim 15), all of the securing means defined in claim 16, all of the holding means defined in claim 19 and all of the forms of the device defined in claims 24 and 25, must be shown or the features canceled from the claims. The Applicant should review all of the claims to ensure that all of the features therein are shown in the drawings. No new matter should be entered. It is noted that the Applicant contends that since the application has received a filing date, OIPE has determined that additional drawings are not needed, however, OIPE does not check the drawings to ensure that all of the claimed subject matter is shown therein. That is the duty of the Examiner. Further, the Applicant has requested that the Examiner show support for the statement that the drawings "must show every feature of the invention specified in the claims". As indicated in the previous office action, and again in this office action, 37 CFR 1.83(a) provides support for the statement.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Information Disclosure Statement

The IDS filed 7/22/02 is not proper since a USSN serial number was provided in the column under US Patent Documents. Since this application is not a patent document and it is not prior art (09/879,931 was filed after the instant application) it should not be presented on an IDS. The application should be brought to the Examiner's attention by including it in the instant specification or in another separate paper.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-46 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art shown in Figures 4-6. The Applicant discloses that the various structures claimed are well-known in the art (i.e., see page 8, line 30, page 9, line 23 and page 10, line 19). The Applicant merely contends that the specific material used to make the device, i.e., a "three-dimensional textured film having textured variations" (claim 1)

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and "three-dimensional textured film" (claim 24) is novel, however, such limitations do not define around the prior art shown in Figures 4-6. The specification indicates on page 4, lines 3 and 17 that "textured variations" can mean holes and "textured film" can be any film with apertures. Accordingly, as the prior art discloses a non-woven film having holes/apertures therethrough, wherein the film can be used to make the various claimed device, the claims do not define around the prior art. Further, the various claimed dimensions, i.e., the amount of "textured variations", the amount of open area, etc., are considered to be a matter of obvious design choice depending on the needs of the manufacturer. Further, the random cross-sections of the mesh (Figure 5) will define a cloth having a first side with a "different" texture than the second side.

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt. Schmidt discloses a three-dimensional textured film having textured variations (as defined by the Applicant) which can be impregnated with various products and which has a high capacity for holding product. Although the Schmidt reference does not disclose the various structures and dimensions being claimed, as discussed supra, such features are commonly known in the art and, accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the various devices from the material defined by Schmidt in order to form devices which have a high capacity for holding product.

Response to Arguments

Applicant's arguments filed 7/22/02 have been fully considered but they are not persuasive. The Applicant contends that the disclosed prior art and the Schmidt device do not disclose a three-dimensional textured film, however, the disclosed films are clearly, and indeed must be, three dimensional, i.e, the film of material used must have a width, a length and a height. Granted the film may be thin, but it is still considered to be three-dimensional.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Benson et al. reference discloses another three-dimensional non-woven film having textured variations.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 703-308-0608. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg L. Huson can be reached on 703-308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.


David J. Walczak
Primary Examiner
Art Unit 3751

DJW
August 24, 2002